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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,367	01/28/2004	Peter Forsell	2333-125	4899
23117	7590	02/01/2007	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			HOLMES, REX R	
		ART UNIT		PAPER NUMBER
				3762
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/01/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/665,367	FORSELL, PETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rex Holmes	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments, see Remarks pages 1-6, filed 11/01/06, with respect to the rejection(s) of claim(s) 1-29 under 35 U.S.C 102 and 35 U.S.C 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lee et al. (U.S. Pat. 5,741,315).

***Double Patenting***

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-19 and 28-29 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-21 of copending Application No. 10/527,989. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6, 8, 10-13, 15, 17, 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (U.S. Pat. 5,741,315 hereinafter "Lee").

5. Regarding claims 1-4, Lee discloses a transmitter containing a coil with a front end and a rear end (Fig. 1; Col. 4, l. 20), a shield (Fig. 1, "16"), a magnetizable core (Fig. 1, "14"), a magnetizable casing surrounding the coil (Fig. 1, "20"). Lee further discloses a casing surrounding the coil except for the front end (Fig. 1, "20"), a core that extends along the longitudinal extension of the coil (Fig. 1, "14"), and a casing that surrounds the circumference of the coil along the longitudinal extension of the coil. (Fig. 1, "20").

6. Regarding claims 6 and 15, Lee discloses a casing for the transmitter comprising a cylindrical wall and circular gable wall (Fig. 1, "20", "16").

7. Regarding claims 8 and 17, Lee discloses that the shield is made of ferrite (Col. 4, l. 3).

8. Regarding Claims 10-13, Lee discloses an apparatus for wireless transfer of energy containing a transmitter (Fig. 1; Col. 4, l. 20), a implantable receiver (Col. 1, l. 9), and at least one shield (Fig. 1, "16"), adapted to shield the environment from said alternating magnetic field generated by said coil except at said front end of said coil, said shield including a magnetizable core (Fig. 1, "20" Col. 4, l. 14), extending in said coil and a magnetizable casing (Fig. 2, "20", "14", "12"), integrated with said core and surrounding said rear end of said coil and the circumference of said coil along at least a portion of said longitudinal extension of said coil (See Fig. 2). Lee further discloses that the casing completely surrounds the coil except for the front end. (Fig. 1, "20"), that the core extends along the longitudinal extension of the coil. (See Figs. 1 and 2), and that the casing

surround the circumference of the coil along the longitudinal extension of the coil. (Fig. 1, "20").

9. Regarding Claims 28 and 29, Lee discloses a method for wireless transfer of energy to a medical device implanted in a human comprising an implanted receiver (Col. 1, l. 9), an external transmitter (Fig. 1; Col. 4, l. 20) containing a coil having a longitudinal extension with a front and rear end (Fig. 1, "12", "14") that is directed at the receiver through the body, that transmits an alternating magnetic field (Col. 1, l. 25). Lee also discloses a shield (Fig. 1, "16"), that contains a magnetizable casing (Col. 4, l. 3), surrounding the circumference of a magnetizable core (Fig. 1, "14"), and coil (FIG. 1, "12").

#### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5, 7, 14, 16, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee.

12. Regarding claims 5, 7, 14, 16, 23 and 25, Lee discloses the claimed invention except for the having the core and/or the coil extending past the casing and the cutout slits. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the coil and casing as taught by Lee, with an extended coil and core and cutout slits, since it was known in the

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art that if you extend the coil and core past the casing or add cutout slits, you will make the impinging field wider and/or stronger.

13. Regarding claims 7, 16 and 25, Lee et al. disclose the claimed invention, however does not disclose cut out slits on the sidewall of the casing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Lee et al. with side wall cut out slits, since it is known in the art that side wall cut out slits are used to provide a stronger magnetic fields along with ventilation to prevent overheating.

14. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee as applied to claims 1 and 10 above, and further in view of Winkler (U.S. Pat. 5,527,348).

15. Regarding Claims 9 and 18, Lee discloses the claimed invention except for the plastic casing and the casing being an order of centimeters from the coil. Lee teaches that it is known to use a plastic casing as set forth in (Column 4, Lines 35-48) to provide the operator with a buffer between their hand and the magnetic field created by the coil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the casing as taught by Lee, with plastic casing as taught by Winkler, since such a modification would provide the transmitter with a plastic casing for providing the operator with a buffer between their hand and the magnetic field created by the coil.

16. Claims 19-22, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in further in view of Von Arx (U.S. Pub. 2003/0114897 A1).

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17. Regarding claim 19, Lee et al. discloses a second coil (Fig. 1, 12, 22, 24), but fails to disclose the second coil disposed within the shield of the transmitter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Lee et al. with a second coil disposed within the housing, since it is known that if the coil is disposed within the housing then the user will not absorb electromagnetic waves.

18. Regarding Claims 19-22, 24, and 26, Lee discloses the claimed invention as detailed above except for the use of two transmitters. Von Arx teaches that it is known to use two transmitters as set forth in Paragraph 89, to provide other embodiments of the telemetry device that can have more than one transmitter to provide increased power/energy to the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the transmitter as disclosed by Lee, with the multiple transmitter apparatus as taught by Von Arx, since such a modification would provide the apparatus with two transmitters for providing increased energy to the receiver.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rex Holmes whose telephone number is 571-272-8827. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rex Holmes  
Examiner  
Art Unit 3762

George Evanisko  
Primary Examiner  
Art Unit 3762

1/20/12